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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

September 6, 2007  
Date  
Ariana A. Stewart  
Buchanan Ingersoll & Rooney PC



Atty Ref. No. 030738

JK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lhing-Yew Li, et al.

Serial No.: 10/067,974

Filed: February 8, 2002

**PATENT APPLICATION**

POLYNUCLEOTIDE CONSTRUCTS  
ENCODING ASPARTATE KINASE,  
ASPARTATE-SEMIALDEHYDE  
DEHYDROGENASE, AND  
DIHYDRODIPICOLINATE REDUCTASE  
AND RELATED CONSTRUCTS, PRODUCTS,  
AND METHODS

Group Art Unit: 1656

Examiner: Steadman, David J.

Pittsburgh, Pennsylvania 15219

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT  
AMENDMENT (37 CFR 1.121)**

Sir:

The attached Listing of Claims is submitted in response to the Notice of Non-Compliant Amendment mailed by the Office on August 23, 2007 in regard to the amendment filed on June 1, 2007. This response is believed timely without need for extension.

Applicants do not agree with the Examiner's conclusion that this amendment was non-compliant for inclusion of the designation "(Not Entered)" to describe claim 45. Claim 45 was offered in a Response after Final Office Action, and entry of the claim was refused. According to the United States Patent and Trademark Office Official Gazette Notice published July 5, 2005 (acceptance of Certain Non-compliant Amendments under 37 CFR 1.121(c), "Claims" that are indicated as 'cancelled' or 'not entered' are not pending in the application . . . ." Therefore the status of the claim is believed to be correct as it was submitted. In an effort to expedite prosecution, Applicants have, however, submitted a new listing of claims that is attached on the next page. That listing shows the status as "cancelled". No new matter is introduced and the claims are believed allowable. If the Examiner wishes to discuss any of these claims, he is asked to please contact me at the number below.

Respectfully submitted,

Buchanan Ingersoll & Rooney PC



Dated: September 6, 2007

Duane A. Stewart III  
Registration No. 54,468  
Attorney for Applicants  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, Pennsylvania 15219  
Telephone: 412-562-1622